IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.5076 OF 2006

Mohammed Ishaque Abbasali Birajdar, .. Petitioner.
Vs
State of Maharashtra and ors. .. Respondents.
Mr M.I.Sethana i/b Mr J.B.Mishra, for the petitioner.
Mr S.A.Khan for respondent nos 2 and 4.

CORAM : D.B.BHOSALE,J.
DATE : 04.09.2006

PC:

1. Heard the learned counsel for the petitioner.

2. The petitioner-plaintiff has taken exception to the order dated 22.7.2005 passed by the City Civil Court, Greater Mumbai, in Notice of Motion in S.C.Suit No.2061 of 2000, by which the notice of motion has been dismissed. The Motion was taken out by the petitioner for appointment of Court Receiver under Order 40, rule 1 of the Code of Civil Procedure and putting him in possession thereof as the Court Receiver's agent. The petitioner also prayed for injunction restraining the respondent-defendant from parting with possession and/or inducting any person or creating interest of any nature in the suit premises in favour of third person. Mr Khan, learned counsel for the respondent-trustees, states that they do not intend to create interest in any nature in the suit premises in favour of third person or part with possession. He further states that the trust

run Madarsa in the suit premises and they may be allowed to continue that activity till disposal of the suit. He further states that the respondent shall not claim any equities. The statements of the learned counsel are accepted. Keeping that in view and considering the overall facts and circumstances of the case, I do not find any reason as to why prayer (e) in the writ petition should not be granted. In the circumstances, prayer (e) in the petition is allowed. Prayer (e) reads thus:

> "(e) Pending the hearing and final disposal of the petition, the respondents and/or their servants, representatives, successors or agents be restrained by the order of this Hon'ble Court from disposing off or creating any third party interest in respect of the said premises viz. Room no.1, Chawl No.1 Worli Hill Reservior, Worli, Mumbai -400 018."

Looking to the nature of the dispute and the age of the petitioner-plaintiff, the trial Court shall endeavour to dispose of the suit as expeditiously as possible and preferably within a period of one year from today. The writ petition is accordingly disposed of.

(D.B.BHOSALE,J.)